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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,226

11/20/2008

Lionel Vedrine

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7590 06/02/2010  
David W. Highet  
Becton, Dickinson and Company  
1 Becton Drive  
Mail Code 110  
Franklin Lakes, NJ 07417-1880

EXAMINER

DOUKAS, MARIA E

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,226	<b>Applicant(s)</b> VEDRINE, LIONEL	
	<b>Examiner</b> MARIA E. DOUKAS	<b>Art Unit</b> 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/15/2010</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,752,918 to Huybert (Huybert).

#### In Reference to Claim 1

An injection device comprising: a body (Figure 1) receiving a needle (needle 27) and a container (ampoule 42); the needle and container movable relative to said body between a retracted position (Figure 1) and an injection position (Figure 2); means for holding the needle in the injection position (examiner assumes applicant has invoked 112, 6th paragraph with the 'means for' language; spring 48, hub 28, and stem 29); means for holding the container in position (examiner assumes applicant has invoked 112, 6th paragraph with the 'means for' language; pawls 40, bead 41); a piston (stopper 43) engaged in the container (Figure 1), characterized in that it additionally comprises: first actuating means (spring 48), second actuating means (spring 39), said first and second actuating means making it possible at the end of the injection to release the means for holding the needle in position simultaneously with the means for holding the

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container (col. 4, lines 5-20, wherein after the injection the springs 39 cause the pawls 40 to move outwardly to allow the ampoule to retract with the needle under the action of the spring 48); a container support (member 36) which is mounted slidably on the body (Figures 1-2), said container being connected to this support (Figure 1) and being able to move relative to the latter between a position permitting injection and a retracted position (col. 4, lines 14-17); means for holding the container support in position (examiner assumes applicant has invoked 112, 6th paragraph with the 'means for' language; spring 48, plate 32, spring 33, and notch 31) which means normally hold the support in a standby position (Figure 1) and can be released in order to permit injection (col. 3, lines 38-59); and means actuating the release of the means for holding the container support (actuator portion 34').

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,752,918 to Huybert (Huybert).

In Reference to Claims 2-3

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Huybert teaches the device of claim 1 (see above) but fails to teach in that particular embodiment wherein the means for holding the support in position comprises: a ring mounted in the proximal part of the body with a transverse tooth, a hook that clips into the tooth, an activating spring, and a button protruding outside the proximal end of the body. Huybert does teach another embodiment of the syringe (Figure 10) that has a safety catch provided at the rear end of the syringe. The safety catch comprises a ring (knob 102) mounted in the body (Figure 10) that has a tooth (cam 104) and an activating spring (spring 105). The cam 104 engages a hook (rod 75; Figure 10) in the container support (chuck member 71), and the spring is compressed when the cam is engaged (col. 6, lines 49-56). The knob 102 protrudes from outside the proximal end of the body and can be rotated to release the cam (col. 6, lines 54-58). Huybert teaches this safety catch in this embodiment in order to provide a means for preventing an accidental forward or projecting movement of the container support assembly (col. 6, lines 40-58).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the embodiment of Huybert described in claim 1 above to have the safety catch assembly as taught in the embodiment of Figure 10 in order to provide a means for preventing an accidental forward or projecting movement of the container support assembly (col. 6, lines 40-58).

In Reference to Claim 4

Huybert teaches the device of claims 1-3 (see above) but fails to explicitly teach the distance that the needle extends. The structure of the device of Huybert is capable of having the needle extend the claimed distance, and there is therefore no patentable distinction in structure between that claimed and that taught by the prior art (see MPEP §2111.04). Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Huybert to have the needle extend the claimed distance as it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art (See MPEP §2144.05).

### ***Response to Arguments***

5. Applicant's arguments filed 3/15/2010 have been fully considered but they are not persuasive. Applicant argues that Huybert does not teach means for holding the needle in the injection position, however this is not found persuasive. As seen in Figure 2, the needle of the device is held in the injection position by the urging of spring 48. Further, after injection is completed, this means for holding the needle in the injection position is released in order to retract the needle (col. 4, lines 5-20).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIA E. DOUKAS whose telephone number is (571)270-5901. The examiner can normally be reached on Monday - Friday 7:30 AM - 5:00 PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MD

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767